

REMARKS/ARGUMENTS

Claims 1-3 are under examination. Claims 4-19 have been canceled without prejudice to future prosecution.

Rejections Under 35 U.S.C. §112, second paragraph

Claim 1 has been amended for clarity and to provide appropriate antecedent basis. Applicant believes the amendment overcomes the rejection of Claims 1-3 under 35 U.S.C. §112, second paragraph.

Double Patenting

Claim 1 was provisionally rejected under the doctrine of obviousness-type double patenting in view of claim 16 of copending application No. 10/890936, which published as US 2004/024653 (referred to by the Office as "the '653 publication"). Prosecution has not yet begun in the '653 publication and it is not known what claims will issue in that case. The present application is expected to issue before the '653 application. If the claims of the second-to-issue application conflict with the claims of the first-to-issue application, Applicants will file a terminal disclaimer, if appropriate.

The '653 publication is a continuation-in-part of recently allowed application No. 10/240993. A copy of the allowed claims is enclosed for the convenience of the Office. The allowed claims are directed to hydrophobic polymers polyamide, polyester, and polypropylene, rather than to hydrophilic polymers as recited in the present invention.

Rejections Under 35 U.S.C. §102(b)

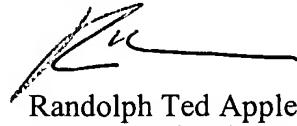
Claims 1-3 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. Pat. No. 5,180,585 ("the '585 patent"). Without agreeing with the position of the Office in connection with the original claims, Applicant notes that as amended claim 1 clearly is not anticipated by the '585 patent. The '585 patent describes an antimicrobial composition comprising an inorganic

core material, a primary surface coating which may be silver, silver oxide, silver halides, copper, copper (I) oxide, copper (II) oxide, copper sulfide, zinc oxide, zinc sulfide, zinc silicate and mixtures thereof (see col. 4, lines 24-30), and a secondary coating such as silica, silicates, borosilicates, aluminosilicates, alumina, aluminum phosphate, or mixtures thereof (see col. 4, lines 43-45). Thus, the '585 patent teaches tri-layer particles unlike the copper oxide particles of the present invention. Further, the '585 patent teaches that the secondary coating is a necessary component, and functions as a barrier between the antimicrobial particle and polymer matrix in which it may be incorporated. The '585 patent did not describe or suggest the presently claimed invention.

Conclusion

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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Enclosures

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